

ARIZONA DEPARTMENT OF WATER RESOURCES

INTERNAL MANAGEMENT POLICY AND PROCEDURE

Subject: INSPECTION OF PUBLIC RECORDS		No: DWR-027
Supersedes:	Distribution: Policy & Procedures Manual	Effective: January 18, 1994

- 1.0. **POLICY:** The purpose of this policy is to familiarize Department personnel with the "open records" laws that govern the availability of agency records to public access. Generally, all documents controlled, managed and maintained by the Department, with few exceptions, are classified as public records for the purposes of access and disclosure. The general rule is addressed by the provisions of Title 39, Chapter 1 of the Arizona Revised Statutes. The Department's policy regarding the disclosure of its records shall conform with the standards set forth in A.R.S. § 39-101, et. seq.
- 2.0. **AUTHORITY:** This Policy is established under the provisions of ARS §§ 45-102.B and 45-105 - Powers and Duties of the Director.
- 3.0. **RESPONSIBILITY:** Division Managers are responsible for insuring that employees in each division are fully informed of the provisions of this policy. Furthermore, all DWR employees are responsible for insuring compliance with this policy.
- 4.0. **DEFINITIONS:**
For the purposes of this policy, the following definitions shall apply:
 - 4.1. The term "**Department**" means the State of Arizona Department of Water Resources.
 - 4.2. The term "**public record**" refers to any records which are executed by a public officer in pursuance of a duty which has as its immediate purpose or intent the dissemination of information to the public or which would serve as a memorial of official transactions for public reference.
 - 4.3. The term "**commercial purpose**" means the use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from such public records for the purpose of solicitation or the sale of such names and addresses to another for the purpose of solicitation or for any purpose in

which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of such public record. A.R.S. § 39-121.03(D)

4.4. The term "custodian" means any individual authorized by the Department to exercise custody and control over records held by the Department.

5.0. **GENERAL RULE:** All public records held by the Department shall be open and available for inspection by any person during the normal course of business hours. Office hours are: 8:00 A.M. to 5 P.M. Monday through Friday. Exceptions to this rule may be approved by the Director, Deputy Directors or the Assistant Director due to Agency workload requirements. Any person may view, inspect, and copy any record held by the Department, except as otherwise provided by law. A.R.S. § 39-121.

5.1. A.R.S. § 39-121.01(B) requires that "all officers and public bodies shall maintain all records reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and any other activities which are supported by funds from the state or any political subdivision thereof."

5.2. A.R.S. § 39-121.01(C) states, in part, that each public body shall be responsible for the preservation, maintenance and care of that body's public records.

6.0. **APPLICATION:**

6.1. A designated custodian will be appointed for each division in the Department by that division's manager. The custodian shall be familiar with this policy, and shall be responsible for processing all requests for records submitted to the appropriate division. The MIS Division will be responsible for collecting the names of custodians appointed and then distributing a public records retention schedule, which includes a combined listing to each division of the appointed custodians. MIS will maintain, and distribute, an updated listing once each month.

6.2. For more extensive requests, the custodian shall require a written application describing the record or records to be inspected. Each division shall develop a Request for Public Records form. The Request for Public Records form shall identify the person making the request, the specific records requested, and the number of copies requested. Each division shall utilize the form attached to this policy as the back side of their division's Request for Public Records form.

6.3. If the custodian to whom the application is directed does not have custody or control of the record requested, the solicited custodian shall direct the applicant to the correct custodian as indicated in the Department's public records retention schedule.

6.4. If a record is in use, in storage, or not otherwise available at the time of the

request, the custodian shall inform the applicant of the status of that record and shall designate a reasonable time, place, and date at which the record or records will be available for inspection.

6.5. The custodian shall charge a fee to produce copies, printouts or photographs of records and may require advanced payment of such fees when copies of records are requested. A.R.S. § 39-121.01(D)(1). Copies of the standard fee rule schedule may be obtained from the Administration Division (see ATCH 1).

6.6. Public records shall be available for copying in either electronic or a hard copy format as currently utilized by the Department. Any request for a public record in a form other than the forms currently utilized by the Department shall be considered as a nonstandardized request.

6.7. Where the Department is asked to produce a record in a nonstandardized format, the Department may charge fees for staff costs as well as any reproduction costs incurred. The Management Information System Division will maintain an Agency fee schedule for the nonstandardized format (see ATCH 1).

6.8. Any person wishing to obtain public records by computer access shall be required to enter into a contract, license, or other agreement with the Department which will describe the person's rights and obligations while accessing said records. The Management Information System Division will maintain the schedule of fees that will be charged to offset the expenses of making such records available.

6.9. Any person requesting that copies of records be mailed by the Department will be required to pay all fees and mailing costs prior to mailing.

7.0. COMMERCIAL REQUESTS:

In addition to the requirements of paragraph 6.0, the Department shall require a written statement and charge a fee for all requests for public records for commercial purposes. A.R.S. § 39-121.03.

7.1. If a copy of a public record is requested for a commercial purposes, the Department shall require a written statement from the requesting party stating the commercial purpose for which it shall be used.

7.2. The fee charged shall be based on: i) The cost to the agency of media, mechanical processing and personnel (if the request is nonstandardized) required to produce a copy of the public record; and ii) The cost to the agency of the creation, purchase, or other acquisition of the public record.

8.0. EXCEPTIONS:

The following situations describe exceptions to the general rule of full and open disclosure of public records:

8.1. Records or documents which are protected under the attorney-client privilege are not categorized as open records and are therefore not disclosable under the general rule.

8.2. Records which are given confidential status by statute will not be available for disclosure. This would include records containing information protected by copyright or patent laws.

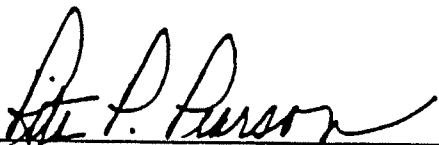
8.3. Licensed software or licensed data is protected under copyright or patent laws and is also excluded from disclosure. Examples of these are: EOSAT, for satellite photos, remotely sensed SPOT data acquired by SPOT satellites, the WordPerfect computer program and the Quattro Pro computer programs. Custodians who receive requests on copying these types of software or data should contact either the MIS Division and/or the Legal Division.

8.4. Records containing personal information, the disclosure of which would violate an individual's rights to privacy. A.G. Opinions I86-090 and I85-097 discuss the state's obligation to protect an individual's right to privacy weighed against the public's right to be informed. This exception would include personnel records held by the Department's personnel division.

8.5. Records containing information, the disclosure of which would be detrimental to the best interests of the state. This would include records which are involved in administrative investigation and hearing procedures at the time of the request.

8.6. The custodian may also refuse a request for inspection in cases where the producing the records and/or reports would place an unreasonable burden on the Department, or where the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the Department. In situations of this nature, the custodian shall consult with the Division Manager, the appropriate Deputy Director, Assistant Director and the Legal Division for a final decision regarding the request.

9.0. **IMPLEMENTATION:** This Policy and its provisions are effective immediately.



Rita P. Pearson, Director

**DEPARTMENT OF WATER RESOURCES
MANAGEMENT INFORMATION SYSTEMS DIVISION**

DATA PROCESSING RATES (Commercial)

F/Y

IBM Computer System

On-Line Access to the IBM Computer System

RATES

Central Processor Time	\$100.00 CPU Hour
Connect time	\$ 40.00 per Hour
File Access Charge	\$ 7.50 per 1000 Reads *

Other Services

RATES

Computer Reports	
First page of the report	\$50.00
Each additional page	\$.20
Copy DWR Data Files to Magnetic Media	
Cost of magnetic tape (if not supplied)	\$15.00 each
Cost of magnetic tape 8mm (if not supplied)	\$30.00 each
Copy charge for each file	\$50.00 each
Copy of MIS System Documentation	
Photocopies/Page	\$.25
Other Support (minimum 1 hour)	
Technical Support (personnel assigned)	\$38.55/hour
Programmer Support	\$31.00/hour

* Cost per 1000 physical reads - Access to data set by block which may contain one or more physical records.

SUN

RATES

Computer Reports	
First page of the report	\$50.00
Each additional page	\$.20

Copy DWR Data Files to Magnetic Tapes	
Cost of magnetic tape (if not supplied)	\$15.00
Copy charge for each file	\$50.00

Copy of MIS System Documentation	
Photocopies/Page	\$.25

Plotter Media

<u>36" wide</u>	
Plotter set up for 36" media	\$20.00
Mylar(.3 mil matte film)	\$ 3.00/ft
Vellum	\$ 1.00/ft
High Gloss Bond	\$ 1.00/ft

Other Support	
Technical Support (personnel assigned)	\$38.55/hour
Programmer/Analyst Support	\$31.00/hour

MICROCOMPUTER (IBM COMPATIBLE)

RATES

Copy DWR Data Files to Floppy Disk	
Floppy Disk (if not supplied)	\$ 5.00 each
Copy charge for each file	\$50.00 each

Copy of MIS System Documentation	
Photocopies/Page	\$.25

Other Services

 Available on a contractual basis

**DEPARTMENT OF WATER RESOURCES
MANAGEMENT INFORMATION SYSTEMS DIVISION**

DATA PROCESSING RATES (Non-Commercial)

F/Y

IBM Computer System

On-Line Access to the IBM Computer System

RATES

Central Processor Time	\$76.00 CPU Hour
Connect time	\$20.00 per Hour
File Access Charge	\$ 3.75 per 1000 Reads *

Other Services

RATES

Computer Reports	
First page of the report	\$15.00
Each additional page	\$.20
Copy DWR Data Files to Magnetic Media	
Cost of magnetic tape (if not supplied)	\$15.00 each
Cost of magnetic tape 8mm (if not supplied)	\$30.00 each
Copy charge for each file	\$25.00 each
Copy of MIS System Documentation	
Photocopies/Page	\$.25
Other Support (minimum 1 hour)	
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Photocopies/Page	\$.25

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Available on a contractual basis

DEPARTMENT OF WATER RESOURCES

STANDARD FEE SCHEDULE

Standard size (8 1/2 X 11) photocopies per page	\$.25
Microfiche copies per page	\$.30
Certified copies	\$2.75

**STATE OF ARIZONA
DEPARTMENT OF WATER RESOURCES
PUBLIC RECORDS REQUEST FORM**

This document represents the VERIFIED STATEMENT OF _____
(Name)
representing _____
(Firm) (Address) (Telephone)

submitted to the Department of Water Resources on the _____ day of _____, 19____ requesting that the Custodian of Public Records provide a computer printout of certain public records specified on the other side.

REQUESTING PARTY: PLEASE READ AND NOTE THE FOLLOWING INFORMATION:

Pursuant to A.R.S. §39-121, Laws 1977, Ch. 54, 2 effective May 17, 1977, any person requesting copies, printouts or photographs of public records must provide a VERIFIED STATEMENT as to whether the use of such reproduction will be for COMMERCIAL OR NON-COMMERCIAL purposes.

A person providing a verified statement that the reproduction will not be used for a commercial purpose will be furnished such at a reasonable fee, not exceeding a commercial rate for like service. A person providing a verified statement setting forth the commercial purpose for which the reproduction will be used may be furnished such reproduction in accordance with the provisions of A.R.S. §39-121.03

If the custodian of a public record believes that the commercial purpose of a reproduction is a misuse of public records or an abuse of the right to receive them, he may refuse a request for reproduction of such record for said commercial purpose and may request the Governor to prohibit the furnishing of reproductions for such commercial purposes by Executive Order. If an Executive Order is not issued within thirty (30) days of the custodian's application, the requesting party will be furnished such reproduction for the commercial purpose set forth in his or her verified statement.

The term "Commercial purpose" means the use of a public record for the purpose of sale or resale, or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale, or the obtaining of names and addresses from such public records for the purpose of solicitation or the sale of such names and addresses to another for the purpose of solicitation, or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of such public record. A.R.S. §39-121.03(D)

IMPORTANT: A.R.S. §39-121.03(D) provides that:

A person who obtains public records for a commercial purpose without indicating the commercial purpose or who obtains a public record for a non-commercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or obtains a public record for a commercial purpose and uses and knowingly allows the use of such record for a different commercial purpose or obtains a public record from anyone other than the custodian of such records and uses them for a commercial purpose shall in addition to other penalties* be liable to the state or the political subdivision from whom the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorney's fees or shall be liable to the State for the three times the actual damage if it can be shown that the public records would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records.

*The penalty for perjury is a fine of not less than \$500 nor more than \$5,000, or imprisonment in the State Prison for not less than one nor more than fourteen years, or both. A.R.S. §13.752.

As the requesting party, I hereby attest that the records requested will be used for:

Commercial Purposes ☐

Non-Commercial Purposes ☐

Signed _____ Date _____